

**United States District Court  
Eastern District of Michigan**

United States of America,

Plaintiff,

Criminal No. 12-20224

v.

Honorable Arthur J. Tarnow

Robert Davis,

Defendant.

\_\_\_\_\_ /

**Government's Sentencing Memorandum**

*He that accuses all mankind of corruption ought to remember that he is sure to convict only one.*

— Edmund Burke, Letter to the Sheriffs of Bristol

*Why do you look at the speck that is in your brother's eye, but do not notice the log that is in your own eye?*

— Matthew 7:3

The United States of America submits this sentencing memorandum regarding defendant Robert Davis.

Robert Davis was an elected member of the Highland Park School Board, and used that position to enable and facilitate a long term scheme to embezzle hundreds of thousands of dollars from the

struggling school district. He facilitated this by manipulating friends to provide accounts to use in the scheme, and by manipulating the school superintendent, who trusted and relied upon Davis. He did this while representing himself as an advocate of the schools, but also while manipulating the legal system to polish his public image, and to disrupt and distract the board. A defendant with this history, who commits these crimes, deserves a significant punishment.

For these reasons, and for the reasons set forth below, the government asks the court to impose a guideline sentence of between 18 and 24 months of incarceration. In addition, we ask the court to order full restitution, in the amount sought by the Emergency Manager for the Highland Park School District, of \$446,708. (PSIR ¶ 16). We also ask the court to impose a special condition of supervised release to require the defendant to comply with paragraph 3(F) of his plea agreement, and to cooperate fully with the IRS in an examination of his income tax liability for the tax years 2006 through 2009.

### **I. Factual Statement**

From 2006 through 2010, Robert Davis conducted a series of related schemes to embezzle and convert to his own use funds taken

from the Highland Park School District. These schemes were only possible because of Davis's position as a member, and president, of the Highland Park School Board. Through this elected position, Davis had influence over Dr. Arthur Carter, the Superintendent of Highland Park Schools, and exerted considerable influence over the operations of the school district.

Using this influence, Davis induced the school district to make substantial payments to a series of business bank accounts controlled by various friends of his: Company K (controlled by EK), Company D (controlled by EK and AK), and Company Z (controlled by DV and VV).

The payments to Companies K and Z were purportedly for advertising and public relations services. Neither of those companies had any connection with the advertising or public relations business. Company K was a home renovation business. Company Z was simply a bank account that had been established by DV.

The payments to Company D were purportedly for running a Saturday academic/athletic tutoring program. Company D was a home renovation business, not an academic or athletic tutoring business.

In these schemes, the companies would submit invoices to the school district for the services purportedly rendered, and the district would issue checks to the companies. At the direction of Davis, his associates would deposit the checks into the company accounts, and the proceeds would then be further disbursed, also at his direction. Some of the funds would actually go to purchase advertising services from radio stations, or to pay tutors. But a large proportion of the funds would go to other recipients, including Davis himself, unrelated to the supposed purpose of the payments made by the school district.

The recipient of the largest share of the funds from these schemes was a bank account in the name of Citizens United to Save Highland Park Schools (“CUSHPS”), controlled by Robert Davis. Although its name makes CUSHPS sound like a charitable organization or PAC, CUSHPS was actually originally a Ballot Question Committee that Davis established in March, 2005 to support a school millage issue. That committee received and paid out negligible amounts for that campaign, and should have been dissolved following the millage election, in June, 2005. However, the bank account opened in the name of CUSHPS, controlled by Davis, remained active and became the

funnel through which he would convert to his own use funds taken from the school district. Once funds arrived at the CUSHPS account, Davis used them for his own benefit, including clothing, travel, restaurants, fuel, and other personal expenses, cash withdrawals, and expenses of athletic and music events sponsored by Davis that were unrelated to the school district or its students.

Between January and June, 2006, acting under Davis's influence, the school district issued five checks totaling \$211,500 to Company K. These payments were purportedly for public relations and media services for the school district. At Davis's direction, his friend EK issued checks disbursing these funds. \$80,500 went to legitimate providers of advertising services: Clear Channel and Excel Media. But \$54,000 went to CUSHPS, and another \$50,000 went directly to Davis himself, and was thus embezzled and converted by Davis.

Davis then told EK that he needed access to a different account to receive and disburse funds from the school district. EK went to his friend and business partner AK, seeking access to an account they jointly controlled, in the name of Company D. Then, with the cooperation of a bank officer, EK gave Davis access to the account.

Using this account, Davis deposited six school district checks, from March through June, 2007, totaling over \$60,000. These checks were issued based on false invoices for Athletic Department services and Saturday tutoring services. At Davis's direction, a little over \$11,000 of these funds went to money orders to pay tutors. The largest portion of the funds, over \$32,000, went to CUSHPS, and was thereby embezzled and converted by Davis. Other funds went elsewhere.

Following this, Davis went to another friend, VV, to seek access to a new account through which to funnel money from the school district. VV's brother, DV, had an account in the name of a d/b/a called Company Z, which had no business operations; it was simply a bank account. VV persuaded DV to allow Robert Davis to run checks through the account. In return, Davis promised to pay VV some of the proceeds. From July, 2007 through January, 2010, Company Z issued a series of false invoices to the school district for advertising and media services, and the school district paid Company Z checks totaling \$387,000. Acting at Davis's direction, DV deposited these checks into the account and then issued cashier's checks, all also based on directions from Davis. As before, some of these funds went to providers of advertising services:

\$155,900 to Clear Channel and \$29,500 to Excel Media. But another \$25,000 went to VV to pay for the use of the account. And \$166,270 went to CUSHPS, and was thus embezzled and converted by Davis

As indicated previously, CUSHPS was not what it appears to be, a charitable organization or PAC devoted to supporting Highland Park Schools. Rather, Robert Davis used the CUSHPS account to support himself, his lifestyle, and various athletic and musical events that he sponsored, unrelated to Highland Park Schools. Over the course of Davis's scheme, CUSHPS received deposits totaling over \$378,000, most coming from Companies K, D, and Z. From these funds, Davis received cash or cash transactions of over \$193,000; he paid miscellaneous personal expenditures of over \$134,000; and he spent over \$50,000 on Robert Davis sponsored musical and athletic events.

Robert Davis filed federal income tax returns for the years 2006 through 2009. He declared income on those returns consisting of wages from his employment by the AFSCME labor union and stipends he received for his services on the Highland Park School Board. He did not declare as income any of the school district's funds that he had

unlawfully converted to his own use. Thus, these income tax returns were materially false.

## **II. Discussion**

As the court knows, it must impose a sentence based on the factors set forth in Title 18, United States Code, Section 3553(a). The government submits that the following statutory factors are most relevant to this case.

### *The Nature and Circumstances of the Offense*

This was a very serious offense. Robert Davis was an elected official of the City of Highland Park and its financially struggling school district. His was responsible for honestly representing the citizens in conducting and overseeing the operations and finances of the school district. In violation of these obligations, Davis concocted an elaborate scheme to embezzle and convert hundreds of thousands of dollars of funds of the school district, using false invoices from front companies and laundering the proceeds through those companies' accounts. In doing this, Davis cynically abused the trust of friends whose companies he used, and he cynically abused the trust of the school superintendent, Dr. Carter, in persuading him to go along with the payments. Further,



this scheme was not a limited, short term affair; it continued from 2006 through 2010, used three different companies as the conduits for the embezzlement, and generated hundreds of thousands of dollars in proceeds for Robert Davis.

And most ironic, in the end, is the name of the account through which the funds were funneled to Davis: Citizens United to Save Highland Park Schools. Perhaps it should have been: Robert Davis Fund to Loot Highland Park Schools.

The sentencing guidelines adequately account for the circumstances of Mr. Davis's offense conduct, and a guideline sentence is fully warranted.

#### *History and Characteristics of the Defendant*

The irony in this case is compounded by the fact that Robert Davis holds himself out as a crusader for the rule of law, filing countless lawsuits, many of them frivolous, purportedly in service of the public interest, but truly in the interest of the greater glory of Robert Davis.

Thus, as noted by the victim Highland Park School District, Davis filed more than 20 lawsuits, from 2008 through 2012, against either a member of the school board or against the board as a whole. In the view

of the Emergency Manager, these suits were intended to intimidate the board and conceal Davis's embezzlement by distracting, dividing, and manipulating the board. These suits cost the district another \$17,000 in attorney's fees.

Highland Park is hardly the only victim of Davis's litigious streak. Anyone who watches local media – or who Googles Robert Davis – can see that he has filed numerous lawsuits against local governments, against the State of Michigan, and against public officials and political candidates. These suits, rarely successful, allege violations of such as the Open Meetings Act, of the Freedom of Information Act, and of residency requirements. Most are dismissed, but not without considerable expense and trouble to the defendants. And in some instances costs and attorney's fees are assessed against Davis for frivolous litigation.

Thus in *Robert Davis v. Highland Park Board of Education and Joyce Parker*, Wayne County Circuit Court Case No. 12-013301-AW, the court found Davis's action to be devoid of legal merit and his purpose was to harass the defendants, and ordered payment of attorney's fees totaling some \$40,000. Incredibly, Davis then sought insurance

coverage for this assessment – from the insurance carrier for the Highland Park Schools.

In his most recent federal bankruptcy filing, Robert Davis lists this debt, as well as other sanctions totaling \$30,000, imposed against him in January, 2014, in frivolous suits he brought against Mike Duggan and the NERD Fund. (U.S. Bankruptcy Court, E.D. Michigan No. 14-57324, Doc. 34).<sup>1</sup>

In another case, *Robert Davis v. Highland Park Board of Education and Dr. Arthur Carter*, Wayne County Circuit Court Case No. 09-026551-AW, the court entered a Stipulated Order of Dismissal providing that the case would be dismissed with prejudice and without costs and attorney's fees. Davis subsequently submitted an apparently fabricated version of the order to Highland Park, that was altered to award \$4,500 in attorney's fees – and Highland Park paid it. Only later, after the fabrication was discovered, did Davis sign a Release Agreement in which he agreed to repay the \$4,500 he had obtained from Highland Park.

---

<sup>1</sup> Curiously, none of these debts is listed in the "Financial Condition" section of the Presentence Report – nor is the \$18,000 debt Davis purportedly owes to attorney Andrew Paterson. (PSIR ¶ 65).

These examples are but a sample of the manner in which Davis has manipulated the courts and the justice system, claiming to be “the voice of the people,” while at the same time funding his efforts and his lifestyle with funds embezzled from the public schools he was elected to serve.

Perhaps the final irony is that his more recent spate of lawsuits have been brought in the name of “Citizens United Against Corrupt Government” – a Michigan Nonprofit Corporation established in 2012 with no stock and no assets, by Robert Davis. If Davis wants to hold public servants accountable for their breaches of the public trust, then why would he now deserve leniency for his own corrupt acts?

To impose a below guideline sentence in this case would serve only to reward and justify Davis’s cynical abuse of the legal system while using his public office to enrich himself at the expense of the citizens.

*Seriousness of the Offense, Promoting Respect for the Law,  
Providing Just Punishment, and Affording Adequate Deterrence*

Robert Davis’s crimes were serious. The ugly spectacle of an elected city official who violates his fiduciary responsibilities and embezzles large sums from a financially distressed public school system, over an extended period of time, does untold damage to the

faith of our citizens in the integrity and the fairness of their system of government.

The seriousness of this crime was further aggravated by the fact that Davis purported to be a crusader for the benefit of the schools he was stealing from. Worse yet, Davis corrupted friends to assist in his criminal activities, and abused the trust of the superintendent.

Given these circumstances, principles of general deterrence and respect for the law support the imposition of a substantial sentence. Anything less than a significant prison sentence would send the message that this conduct is tolerable. It is not.

It has been said that “the accomplice to the crime of corruption is frequently our own indifference.” In our nation of laws the only recourse for Mr. Davis’s betrayal of the public trust comes through the justice system now delegated to this court. In light of those factors, a substantial sentence of between 18 and 24 months is warranted.

*Sentences Contemplated by the Sentencing Guidelines*

The PSIR prepared by the U.S. Probation Department found that an advisory guideline range of 24 to 30 months applies to defendant’s offense of conviction. (PSIR, ¶ 67). The parties have agreed to a slightly

lower guideline range, of 18 to 24 months, based on grouping the Title 18 and Title 26 offenses together. A sentence at the top of the stipulated range would satisfy both approaches.

While a sentence within the advisory guideline range is not “per se reasonable,” it does carry a presumption of reasonableness on appeal when the record shows that the district court considered the range as applied to a particular defendant in light of the § 3553(a) factors.

*United States v. Buchanan*, 449 F.3d 731, 734 (6th Cir. 2006).

*The Need to Avoid Unwarranted Sentencing Disparities*

Finally, imposition of a sentence within the advisory Guideline range best serves “the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.” 18 U.S.C. § 3553(a)(6). Congress “sought uniformity in sentencing by narrowing the wide disparity in sentences imposed by different federal courts for similar criminal conduct” prior to the Guidelines. *Rita v. United States*, 127 S. Ct. 2456, 2464 (2007). Because “uniformity remains an important goal of sentencing,” “Section 3553(a)(6) directs district courts to consider the need to avoid unwarranted disparities.” *Kimbrough v. United States*, 128 S. Ct. 558,

573-74 (2007)(emphasis by Court). The Guidelines “help to ‘avoid excessive sentencing disparities,’” *Kimbrough*, 128 S. Ct. at 573-74, because “avoidance of unwarranted disparities was clearly considered by the Sentencing Commission when setting the Guidelines ranges,” *Gall v. United States*, 128 S. Ct. 586, 599 (2007), and because most defendants are sentenced within the Guideline Ranges.

A sentence within the guideline range would serve this purpose in this case.

### **III. Conclusion**

Based upon the foregoing, and consistent with Robert Davis’s offense of conviction and the statutory sentencing factors, the government recommends that the court impose a sentence of 18 to 24 months incarceration, to be followed by a term of three years of supervised release. The government further requests the court to order full restitution, in the amount sought by the Emergency Manager for the Highland Park School District, of \$446,708. (PSIR ¶ 16). The government also requests the court to impose a special condition of supervised release to require the defendant to comply with paragraph 3(F) of his plea agreement, which requires him to cooperate fully with

the IRS in an examination of his income tax liability for the tax years 2006 through 2009.

Respectfully submitted,

BARBARA L. McQUADE  
United States Attorney

s/ Dawn N. Ison  
DAWN N. ISON  
Assistant U.S. Attorney

s/ Sheldon N. Light  
SHELDON N. LIGHT (P28798)  
Assistant U.S. Attorney  
211 W. Fort St., Suite 2001  
Detroit, MI 48226-2311  
313.226.9732  
Sheldon.Light@usdoj.gov

Dated: December 15, 2014



Certificate of Service

I hereby certify that on December 15, 2014, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Douglas R. Mullkoff, Esq.

s/ Sheldon N. Light  
SHELDON N. LIGHT (P28798)  
Assistant U.S. Attorney